

REMARKS

Claims 1, 3-11, 13-19 are pending. Claims 1, 7, 10 and 17 have been amended without prejudice and without acquiescence. Claims 2 and 12 have been canceled without prejudice and without acquiescence. Applicants assert that no new matter has been added. Applicants retain the right to file any continuation and/or divisional application to any canceled subject matter. The outstanding issues of this Office Action are:

- Claims 1-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable in view of co-pending US Application No. 10/282,929.
- Claims 1-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable in view of co-pending US Application No. 10/639,139.
- Claims 1-19 are rejected under 35 U.S.C. 102(a) as allegedly being anticipated by WO 00/44375.
- Claims 1, 3-6, 8-11, and 13-19 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by the article "Antioxidant may improve pet health."
- Claims 1, 3-6, 8-11, and 13-19 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by the article "Antioxidant Vitamins in Canine Nutrition."
- Claims 1, 2, 8-13, and 13-19 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by the article "Dietary antioxidant in cat and dog nutrition" by Harper.
- Claims 1, 8-11, 13, 18 and 19 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by EP 0845216.
- Claims 1, 8-11, 13, 18 and 19 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by EP 0838955.

- Claims 1, 2, 8-13, 18 and 19 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by US 6,261,598.
- Claims 2, 7, 12 and 17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the article “Antioxidant may improve pet health” in view of the article “Dietary antioxidant in cat and dog nutrition” by Harper.
- Claims 2, 7, 12 and 17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the article “Antioxidant Vitamins in Canine Nutrition” in view of the article “Dietary antioxidant in cat and dog nutrition” by Harper.
- Claims 3-7 and 13-17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the article “Dietary antioxidant in cat and dog nutrition” by Harper in view of WO 00/72698.
- Claims 2-7, 12 and 14-17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over EP 0845216 in view of the article “Dietary antioxidant in cat and dog nutrition” by Harper.
- Claims 2-7, 12 and 14-17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over EP 0838955 in view of the article “Dietary antioxidant in cat and dog nutrition” by Harper.
- Claims 3-7 and 14-17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over US 6,261,598.
- Claims 1-19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over WO 00/72698 in view of the article “Dietary antioxidant in cat and dog nutrition” by Harper.

I. Rejection under Provisional Double Patenting

A. US Application No. 10/282,929

Claims 1-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable in view of co-pending US Application No. 10/282,929. Applicants traverse.

The Court of Claims and Patent Appeals (now the Court of Appeals for the Federal Circuit) has stated: "Once the provisional rejection has been made, there is nothing the examiner and the applicant must do until the other application issues." In re Mott, 190 U.S.P.Q. 536, 541 (C.C.P.A. 1976) (emphasis added). M.P.E.P. § 804 allows for the prosecution to continue while a provisional double-patenting rejection is pending and even instructs the Office to continue to make such a provisional rejection until one of the applications issues as a patent.

Thus, Applicants request that this rejection be held in abeyance until the conflicting claims are in fact patented.

B. US Application No. 10/639,139

Claims 1-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable in view of co-pending US Application No. 10/639,139. Applicants traverse.

The Court of Claims and Patent Appeals (now the Court of Appeals for the Federal Circuit) has stated: "Once the provisional rejection has been made, there is nothing the examiner and the applicant must do until the other application issues." In re Mott, 190 U.S.P.Q. 536, 541 (C.C.P.A. 1976) (emphasis added). M.P.E.P. § 804 allows for the prosecution to continue while a provisional double-patenting rejection is pending and even instructs the Office to continue to make such a provisional rejection until one of the applications issues as a patent.

Thus, Applicants request that this rejection be held in abeyance until the conflicting claims are in fact patented.

II. Rejection under 35 U.S.C. 102

A. WO 00/44375

Claims 1-19 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 00/44375. Applicants traverse.

Applicants remind the Examiner that “[u]nder 35 U.S.C. § 102, anticipation requires that...the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public.” See *Akzo N.V. v. United States Int’l Trade Comm’n*, 808 F.2d 1471, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986) (citing *In re Brown*, 329 F.2d 1006, 1011, 141 USPQ 245, 249 (C.C.P.A. 1964).

Applicants assert that WO 00/44375 may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage. If the Examiner continues to maintain WO 00/44375 as the basis for this rejection, the Examiner is requested to make of record the passage relied upon, or state for the record that no such teaching can be found in WO 00/44375. See, *In re Gartside*, 203 F.3d 1305, 53 USPQ2d 1769 (Fed. Cir. 2000).

In view of the above, Applicants request that the rejection be withdrawn.

B. “Antioxidant may improve pet health”

Claims 1, 3-6, 8-11, and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by the article “Antioxidant may improve pet health.” Applicants traverse.

In order to advance the prosecution of the present application, independent claims 1 and 10 have been amended without prejudice and without acquiescence to indicate that the foodstuff comprises taurine, which was the subject matter of claims 2 and 12, which were not rejected. Thus, in view of this amendment, applicants request that the rejection be withdrawn.

C. Antioxidant Vitamins in Canine Nutrition

Claims 1, 3-6, 8-11, and 13-19 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by the article "Antioxidant Vitamins in Canine Nutrition." Applicants traverse.

In order to advance the prosecution of the present application, independent claims 1 and 10 have been amended without prejudice and without acquiescence to indicate that the foodstuff comprises taurine, which was the subject matter of claims 2 and 12, which were not rejected. Thus, in view of this amendment, applicants request that the rejection be withdrawn.

In view of the above, applicant believes the pending application is in condition for allowance.

D. "Dietary antioxidant in cat and dog nutrition"

Claims 1, 2, 8-13, and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by the article "Dietary antioxidant in cat and dog nutrition" by Harper. Applicants traverse.

Applicants remind the Examiner that "[u]nder 35 U.S.C. § 102, anticipation requires that...the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public." See *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986) (citing *In re Brown*, 329 F.2d 1006, 1011, 141 USPQ 245, 249 (C.C.P.A. 1964).

Applicants assert that Harper may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage. If the Examiner continues to maintain Harper as the basis for this rejection, the Examiner is requested to make of record the passage relied upon, or state for the record that no such teaching can be found in Harper. See, *In re Gartside*, 203 F.3d 1305, 53 USPQ2d 1769 (Fed. Cir. 2000).

In view of the above, Applicants request that the rejection be withdrawn.

E. EP 0845216

Claims 1, 8-11, 13, 18 and 19 and are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0845216. Applicants traverse.

In order to advance the prosecution of the present application, independent claims 1 and 10 have been amended without prejudice and without acquiescence to indicate that the foodstuff comprises taurine, which was the subject matter of claims 2 and 12, which were not rejected. Thus, in view of this amendment, applicants request that the rejection be withdrawn.

F. EP 0838955

Claims 1, 8-11, 13, 18 and 19 and are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0838955. Applicants traverse.

In order to advance the prosecution of the present application, independent claims 1 and 10 have been amended without prejudice and without acquiescence to indicate that the foodstuff comprises taurine, which was the subject matter of claims 2 and 12, which were not rejected. Thus, in view of this amendment, applicants request that the rejection be withdrawn.

G. US 6,261,598

- Claims 1, 2, 8-13, 18 and 19 and are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,261,598. Applicants traverse.

Applicants remind the Examiner that “[u]nder 35 U.S.C. § 102, anticipation requires that...the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public.” See *Akzo N.V. v. United States Int’l Trade Comm’n*, 808 F.2d 1471, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986) (citing *In re Brown*, 329 F.2d 1006, 1011, 141 USPQ 245, 249 (C.C.P.A. 1964).

Applicants assert that US 6,261,598 may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage.

If the Examiner continues to maintain US 6,261,598 as the basis for this rejection, the Examiner is requested to make of record the passage relied upon, or state for the record that no such teaching can be found in US 6,261,598. See, *In re Gartside*, 203 F.3d 1305, 53 USPQ2d 1769 (Fed. Cir. 2000).

In view of the above, Applicants request that the rejection be withdrawn.

III. Rejection under 35 U.S.C. 103

A. “Antioxidant may improve pet health” in view of “Dietary antioxidant in cat and dog nutrition” by Harper.

Claims 2, 7, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article “Antioxidant may improve pet health” in view of “Dietary antioxidant in cat and dog nutrition” by Harper. Applicants traverse.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

The article “Antioxidants may improve pet health” does not mention nor suggest a foodstuff comprising taurine nor the use of a foodstuff to reduce the amount of nucleic acid damage. Applicants also assert that Harper may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage. Furthermore, Applicants assert that there is no motivation and/or suggestion to combine the two articles to produce a foodstuff that contains vitamin E, vitamin C, carotenoids, and taurine to reduce nucleic acid damage in a companion animal. In fact, the article “Antioxidant my improve pet health” specifically indicates that a stumbling block to using antioxidant products in pets is that it is not widely available and the majority of the data comes from humans. This would suggest that the results are not expected.

Applicants remind the Examiner that the MPEP sets forth the guidelines to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 (MPEP § 2143.3). Three basic criteria must be met to establish a *prima facie* case of obviousness. The three criteria are:

1) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

2) a reasonable expectation of success; and

3) the prior art references must teach or suggest all the claim limitations.

In view of the above criteria, Applicants assert that the Office has not established a prima facie case of obviousness to reject the claims under 35 U.S.C. § 103 in light of the above criteria. In *re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438, (Fed. Cir. 1991). A prima facie case necessitates disclosure of the source for either a suggestion or motivation to modify a reference to produce the present invention, and a reasonable expectation of success of producing the present invention. As discussed above, neither of the references teach a foodstuff that can be produced and/or used to reduce nucleic acid damage in companion animals nor do they provide a reasonable expectation of success. In light of the above arguments, Applicants respectfully request that the obviousness rejection be withdrawn.

B. Antioxidant Vitamins in Canine Nutrition

Claims 2, 7, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article “Antioxidant Vitamins in Canine Nutrition” in view of “Dietary antioxidant in cat and dog nutrition” by Harper. Applicants traverse.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In *re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

The article “Antioxidant Vitamins in Canine Nutrition” does not mention nor suggest a foodstuff comprising taurine. Applicants also assert that Harper may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage. Furthermore, Applicants assert that there is no motivation and/or

suggestion to combine the two articles to produce a foodstuff that contains vitamin E, vitamin C, carotenoids, and taurine to reduce nucleic acid damage in a companion animal.

Applicants remind the Examiner that the MPEP sets forth the guidelines to establish a prima facie case of obviousness under 35 U.S.C. § 103 (MPEP § 2143.3). Three basic criteria must be met to establish a prima facie case of obviousness. The three criteria are:

1) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

2) a reasonable expectation of success; and

3) the prior art references must teach or suggest all the claim limitations.

In view of the above criteria, Applicants assert that the Office has not established a prima facie case of obviousness to reject the claims under 35 U.S.C. § 103 in light of the above criteria. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438, (Fed. Cir. 1991). A prima facie case necessitates disclosure of the source for either a suggestion or motivation to modify a reference to produce the present invention, and a reasonable expectation of success of producing the present invention. As discussed above, neither of the references teach a foodstuff that can be produced and/or used to reduce nucleic acid damage in companion animals nor do they provide a reasonable expectation of success. In light of the above arguments, Applicants respectfully request that the obviousness rejection be withdrawn.

C. “Dietary antioxidant in cat and dog nutrition”

Claims 3-7, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article “Dietary antioxidant in cat and dog nutrition” by Harper in view of WO 00/72698. Applicants traverse.

In order to advance the prosecution of the present application, independent claims 1 and 10 have been amended without prejudice and without acquiescence to indicate that the foodstuff comprises taurine, which was the subject matter of claims 2 and 12, which were not

rejected. Thus, in view of this amendment, applicants request that the rejection be withdrawn.

D. EP 0845216

Claims 2-7, 12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0845216 in view of “Dietary antioxidant in cat and dog nutrition” by Harper. Applicants traverse.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

As the Examiner has indicated EP 0845216 does not teach a foodstuff comprising taurine. Applicants also assert that EP 0845216 also does not teach a foodstuff that reduces nucleic acid damage in companion animals. Furthermore, EP0845216 discusses various problems of manufacturing a foodstuff having vitamin E. In view of this, one of skill in the art would not assume that it is standard practice to combine vitamin E, vitamin C, carotenoids and taurine to produce a foodstuff.

The article “Antioxidant Vitamins in Canine Nutrition” does not mention nor suggest a foodstuff comprising taurine. Applicants also assert that Harper may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage.

In view of the above, Applicants assert that there is no motivation and/or suggestion to combine the two references to produce a foodstuff that contains vitamin E, vitamin C, carotenoids, and taurine to reduce nucleic acid damage in a companion animal.

Applicants remind the Examiner that the MPEP sets forth the guidelines to establish a prima facie case of obviousness under 35 U.S.C. § 103 (MPEP § 2143.3). Three basic criteria must be met to establish a prima facie case of obviousness. The three criteria are:

1) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

2) a reasonable expectation of success; and

3) the prior art references must teach or suggest all the claim limitations.

In view of the above criteria, Applicants assert that the Office has not established a prima facie case of obviousness to reject the claims under 35 U.S.C. § 103 in light of the above criteria. In *re* Vaeck, 947 F.2d 488, 20 USPQ2d 1438, (Fed. Cir. 1991). A prima facie case necessitates disclosure of the source for either a suggestion or motivation to modify a reference to produce the present invention, and a reasonable expectation of success of producing the present invention. As discussed above, neither of the references teach a foodstuff that can be produced and/or used to reduce nucleic acid damage in companion animals nor do they provide a reasonable expectation of success. In light of the above arguments, Applicants respectfully request that the obviousness rejection be withdrawn.

E. EP 0838955

Claims 2-7, 12, 14-17 and are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0838955 ('955) in view of "Dietary antioxidant in cat and dog nutrition" by Harper. Applicants traverse.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In *re* Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

As the Examiner has indicated EP 0838955 does not teach a foodstuff comprising taurine. Applicants also assert that EP 0838955 also does not teach a foodstuff that reduces nucleic acid damage in companion animals. In view of this, one of skill in the art would not assume that it is standard practice to combine vitamin E, vitamin C, carotenoids and taurine to produce a foodstuff.

The article “Antioxidant Vitamins in Canine Nutrition” does not mention nor suggest a foodstuff comprising taurine. Applicants also assert that Harper may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage.

In view of the above, Applicants assert that there is no motivation and/or suggestion to combine the two references to produce a foodstuff that contains vitamin E, vitamin C, carotenoids, and taurine to reduce nucleic acid damage in a companion animal.

Applicants remind the Examiner that the MPEP sets forth the guidelines to establish a prima facie case of obviousness under 35 U.S.C. § 103 (MPEP § 2143.3). Three basic criteria must be met to establish a prima facie case of obviousness. The three criteria are:

- 1) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) a reasonable expectation of success; and
- 3) the prior art references must teach or suggest all the claim limitations.

In view of the above criteria, Applicants assert that the Office has not established a prima facie case of obviousness to reject the claims under 35 U.S.C. § 103 in light of the above criteria. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438, (Fed. Cir. 1991). A prima facie case necessitates disclosure of the source for either a suggestion or motivation to modify a reference to produce the present invention, and a reasonable expectation of success of producing the present invention. As discussed above, neither of the references teach a foodstuff that can be produced and/or used to reduce nucleic acid damage in companion animals nor do they provide a reasonable expectation of success. In light of the above arguments, Applicants respectfully request that the obviousness rejection be withdrawn.

F. US 6,261,598

- Claims 3-7 and 14-17 and are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,261,598. Applicants traverse.

Applicants assert that US 6,261,598 may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage. If the Examiner continues to maintain US 6,261,598 as the basis for this rejection, the Examiner is requested to make of record the passage relied upon, or state for the record that no such teaching can be found in US 6,261,598. See, *In re Gartside*, 203 F.3d 1305, 53 USPQ2d 1769 (Fed. Cir. 2000).

Applicants remind the Examiner that the MPEP sets forth the guidelines to establish a prima facie case of obviousness under 35 U.S.C. § 103 (MPEP § 2143.3). Three basic criteria must be met to establish a prima facie case of obviousness. The three criteria are:

- 1) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

- 2) a reasonable expectation of success; and

- 3) the prior art references must teach or suggest all the claim limitations.

In view of the above criteria, Applicants assert that the Office has not established a prima facie case of obviousness to reject the claims under 35 U.S.C. § 103 in light of the above criteria. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438, (Fed. Cir. 1991). A prima facie case necessitates disclosure of the source for either a suggestion or motivation to modify a reference to produce the present invention, and a reasonable expectation of success of producing the present invention. As discussed above, the reference does not teach a foodstuff that can be produced and/or used to reduce nucleic acid damage in companion animals nor does it provide a reasonable expectation of success. In light of the above arguments, Applicants respectfully request that the obviousness rejection be withdrawn.

G. WO 00/72698

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/72698 in view of "Dietary antioxidant in cat and dog nutrition" by Harper.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

As the Examiner indicates on page 15 of the office action, WO '698 does not teach nor suggest a foodstuff comprising vitamin C or taurine, nor does it teach or suggest a composition that can be produced and/or used to reduce nucleic acid damage in a companion animal. Applicants also assert that Harper may mention a foodstuff comprising vitamin C, vitamin E, taurine and carotenoids, however, nowhere that Applicants can identify is there any mention of producing or using a foodstuff to reduce the amount of nucleic acid damage. Furthermore, Applicants assert that there is no motivation and/or suggestion to combine the two articles to produce a foodstuff that contains vitamin E, vitamin C, carotenoids, and taurine to reduce nucleic acid damage in a companion animal.

Applicants remind the Examiner that the MPEP sets forth the guidelines to establish a prima facie case of obviousness under 35 U.S.C. § 103 (MPEP § 2143.3). Three basic criteria must be met to establish a prima facie case of obviousness. The three criteria are:

1) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;

2) a reasonable expectation of success; and

3) the prior art references must teach or suggest all the claim limitations.

In view of the above criteria, Applicants assert that the Office has not established a prima facie case of obviousness to reject the claims under 35 U.S.C. § 103 in light of the above criteria. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438, (Fed. Cir. 1991). A prima facie case necessitates disclosure of the source for either a suggestion or motivation to modify a

reference to produce the present invention, and a reasonable expectation of success of producing the present invention. As discussed above, neither of the references teach a foodstuff that can be produced and/or used to reduce nucleic acid damage in companion animals nor do they provide a reasonable expectation of success. In light of the above arguments, Applicants respectfully request that the obviousness rejection be withdrawn.

In view of the above, Applicants request that the rejection be withdrawn.

CONCLUSION

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02375US1 from which the undersigned is authorized to draw.

Dated: October 25, 2006

Respectfully submitted,

By /Melissa W. Acosta/
Melissa W. Acosta, Ph.D.
Registration No.: 45,872
FULBRIGHT & JAWORSKI L.L.P.
Fulbright Tower
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(713) 651-5151
(713) 651-5246 (Fax)